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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,716	07/20/2001	Gregory Bret Turetzky	ST00014C3	1491

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EXAMINER	
TRAN, KHANH C	
ART UNIT	**PAPER NUMBER**
2631	

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/909,716	TURETZKY ET AL.	
	Examiner	Art Unit	
	Khanh Tran	2631	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 July 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *1-9* is/are allowed.

6)☒ Claim(s) *10-12* is/are rejected.

7)☒ Claim(s) *13-20* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *20 July 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 10 is objected to because of the following informalities: in line 7, ", the second data path determining" should be changed to -- ; determining, using the second data path, --. Appropriate correction is required.

2. Claim 13 is objected to because of the following informalities: in line 3, "CDMA" should be changed to -- GPS --. Appropriate correction is required.

3. Claim 14 is objected to because of the following informalities: in line 3, ", the second data path determining" should be changed to -- ; determining, using the second data path, --. Appropriate correction is required.

4. Claim 18 is objected to because of the following informalities: in line 3, "CDMA" should be changed to -- GPS --. Appropriate correction is required.

5. Claim 19 is objected to because of the following informalities: in line 3, "CDMA" should be changed to -- GPS --; in line 5, "CDMA" should be changed to -- GPS --. Appropriate correction is required.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claim 10 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,680,695. Although the conflicting claims are not identical, they are not patentably distinct from each other because the following reasons establish a prima facie case of obviousness against the application claim:

a. ***Claim 1 of US Patent 6,680,695*** claims a transceiver capable of using a wireless communications link for transmission and reception of wireless signals.

Claim 10 of US Application 09/909,716 claims a transmitting and receiving cellular telephone signals using a cellular telephone transceiver.

Prima facie case of obviousness: as stated in the application claim, a cellular telephone transceiver is a transceiver, and as well known in the art, the cellular telephone transceiver transmits and receives wireless signals. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made that the transceiver, as claimed in the US Patent, can be modified to be used as a cellular telephone transceiver for transmission and reception of wireless signals. The modification is obvious because the transceiver as claimed in the US Patent is capable of using wireless communications link for transmission and reception of wireless signals.

b. ***Claim 1 of US Patent 6,680,695*** claims a GPS receiver coupled to the transceiver and useable for at least computing the position of the transceiver, comprising:

- a first data path for correlating an incoming GPS signal, located within a scanned signal window, with a locally generated signal; and
- a second data path for verifying the incoming GPS signal, located within the scanned signal window, against a lock signal, the verification determining whether the incoming GPS signal has at least one characteristic which differentiates the incoming GPS signal from an auto-correlated signal;

Claim 10 of US Application 09/909,716 claims

- correlating an incoming GPS signal, located within a scanned signal window,

with a locally generated signal, using a first data path;

- and verifying the incoming GPS signal, located within the scanned signal window, against a lock signal, using a second data path, determining using the second data path whether the incoming GPS signal has at least one characteristic which differentiates the incoming GPS signal from an auto-correlated signal and a cross-correlated signal;

Prima facie case of obviousness: the GPS receiver in the US Patent comprises a first data path for performing correlation of an incoming GPS signal within a scanned signal window, and a second data path for performing verification of the incoming GPS signal within the scanned signal window, against a lock signal. In light of that, the GPS receiver has all the means for performing the steps in the application claim. The US Patent and the application differ in that the US Patent determines at least one characteristic, which differentiates the incoming GPS signal from an *auto-correlated signal*, while the application determines at least one characteristic, which differentiates the incoming GPS signal from *an auto-correlated signal and a cross-correlated signal*. Without claiming a specific characteristic for differentiating the incoming GPS signal from an auto-correlated signal and a cross-correlated signal as in the application claim, a person of ordinary skill in the art will appreciate that the characteristic can be a signal-to-noise ratio (SNR) and the differentiation is based on a predetermined SNR threshold value. And since there is no specific limitation for determining whether the characteristic indicates an auto-correlation event or cross-

correlation event, a person of ordinary skill in the art will appreciate that the same predetermined SNR threshold value for both auto-correlation event and cross-correlation event can be utilized for differentiating the incoming GPS signal from an auto-correlated signal and a cross-correlated signal. The motivation for utilizing the same predetermined SNR threshold value for both auto-correlation cross-correlation signals is that auto-correlated event and a cross-correlated event constitute spurious signals, or noise, which are not proper signals for the GPS receiver to lock on. As long as the incoming GPS signal is above the level of the spurious signals, the GPS receiver can differentiate the incoming GPS signal from the noise level (any signal not a proper signal for the GPS receiver to lock on is assumed to be noise). In view of the foregoing discussion, it would have been obvious for one of ordinary skill in the art at the time the invention was made that the GPS receiver, claimed in the US Patent, can also differentiate the incoming GPS signal from a cross-correlated signal for the reasons and motivation as stated above.

c. ***Claim 1 of US Patent 6,680,695*** claims wherein the GPS receiver can change the locally generated signal to continue to search the scanned signal window for a second incoming GPS signal if the incoming GPS signal lacks the at least one characteristic.

Claim 10 of US Application 09/909,716 claims monitoring the first data path; and continuing to search the scanned signal window for a second incoming GPS signal if the incoming GPS signal lacks the at least one characteristic.

Prima facie case of obviousness: The US Patent lacks the step of monitoring the first data path as claimed in the application. However, the steps of correlating the incoming signal and verifying the incoming signal are performed on the same incoming GPS signal located within the scanned signal window. In light of that, the act of continuing to search the scanned widow for a second incoming GPS signal would inherently include monitoring the first data path since both the first data path and second data path receives the same incoming GPS signal.

Conclusion for Prima facie case of obviousness: The communication system as claimed in the US Patent comprises a transceiver and a GPS receiver coupled to the transceiver. The transceiver can be used as a cellular telephone as discussed above. The GPS receiver comprises all the means, each of which can perform each of the steps in the order of the method claimed the instant application. With the communication system performing identical steps specified in the claim, one of ordinary skill in the art would have been motivated to utilize the communication system as claimed in the US Patent to perform all steps of the method as set forth in the application claim for the reasons and motivation as recited above.

7. Claim 11 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 3 of U.S. Patent No. 6,680,695. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 11 of the instant application and claim 3 of the US Patent claim identical limitations. Because claim 11 depends on rejected claim 10 above, claim 11 is rejected on the same ground as for claim 10.

8. Claim 12 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 4 of U.S. Patent No. 6,680,695. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 12 of the instant application and claim 4 of the US Patent claim identical limitations. Because claim 12 depends on rejected claim 10, claim 12 is rejected on the same ground as for claim 10.

Allowable Subject Matter

9. Claims 1-9 are allowed.

Regarding claim 1, claim 1 is allowed over prior art of record because the closest prior art of record, US 5,402,441, discloses a similar signal receiver for Global Positioning System, does teach or disclose the critical limitations "*verifying the incoming GPS signal, located within the scanned signal window, against a lock signal on a second data path*".

10. Claims 13-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Pon U.S. Patent 5,966,403 discloses "Code Multipath Error Estimation Using Weighted Correlators".

Pon U.S. Patent 6,414,987 discloses "Code Multipath Estimation For Weighted Or Modified Tracking".

Pon et al. U.S. Patent 5,907,578 discloses "Weighted Carrier Phase Multipath Reduction".

Brown et al. U.S. Patent 6,650,694 discloses "Correlator Co-Processor For CDMA Rake Receiver Operations".

Washizu et al. U.S. Patent 5,402,441 discloses "Signal Receiver For Global Positioning System".

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh Tran whose telephone number is 571-272-

3007. The examiner can normally be reached on Monday - Friday from 08:00 AM - 05:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad Ghayour can be reached on 571-272-3021. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KCT

Khanh Cong Tran 12/10/2004

KHANH TRAN